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**Special Review Board**

established in me as President by the Constitution and laws of the United States of America, and in order to establish, in accordance with the Committee Act, as amended (5 U.S.C. App. I), a Special Review Board to review the activities of the National Security Council, it is as follows:

**Section 1.** (a) There is established the President's Special Review Board to review the future role of the National Security Council staff. The Board shall consist of three members appointed by the President from among individuals with extensive experience in foreign policy and national security matters.

The President shall designate a Chairman from among the members of the Board.

(b) The Board shall conduct a comprehensive study of the functions, procedures of the National Security Council (NSC) staff in the areas of planning, oversight, and conduct of foreign and national security matters. The Board shall submit its findings and recommendations to the President based upon its analysis of the NSC staff's proper role in operational activities, sensitive diplomatic, military, and intelligence missions, and recommendations to the President based upon its analysis of the foreign and national security policies established by the NSC staff.

The Board shall submit its findings and recommendations to the President on or before the date of this Order.

**Section 2.** (a) The heads of Executive departments, agencies, and entities, to the extent permitted by law, shall provide assistance, with such information as it may require for purposes of the Board.

The Board shall receive compensation for their work on the same basis as specified for GS-18 of the General Schedule. While members of the Board, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, as authorized by law for persons serving intermittent service (5 U.S.C. 5701-5707).

The Board shall be organized and subject to the availability of appropriate personnel. The Executive Office of the President, shall provide such administrative services, funds, facilities, staff, and other services as may be necessary for the performance of its duties.

No. 12576

Sec. 1. I hereby transmit to the President.

THE WHITE HOUSE,  
December 1, 1986.

**AH. A**  
*Ronald Reagan*

Executive Order 12576 of December 2, 1986

**Victims of Terrorism Compensation**

51 F.R. 43727

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399) ("the Act"), and in order to provide for the implementation of that Title with respect to individuals who have been held hostage in Iran and other former hostages, it is hereby ordered as follows:

**Section 1.** The functions vested in the President by Section 803 of the Act (5 U.S.C. 5569) are delegated to the Secretary of State for the purpose of paying compensation to individuals who were held in captive status commencing on or before January 21, 1981.

**Section 2.** The functions vested in the President by Section 806 of the Act (37 U.S.C. 559) are delegated to the Secretary of Defense for the purpose of paying compensation to individuals who were held in captive status commencing on or before January 21, 1981.

**Section 3.** The Secretary of State and the Secretary of Defense shall consult with each other and with the heads of other appropriate Executive departments and agencies in carrying out these functions.

THE WHITE HOUSE,  
December 2, 1986.

*Ronald Reagan*

*Section 803 of the Act included death payments*

were placed in a captive status due to the  
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otherwise accounted for, or  
"(2) December 31, 1981.

"(c) Captive status.—For purposes of this title—  
"(1) In general.—The term 'captive status' means a missing status arising because of a hostile action abroad—

"(A) which is directed against the United States during the hostage period, and

"(B) which is identified by the Secretary of State in the Federal Register.

"(2) Missing status defined.—The term 'missing status'—

"(A) in the case of employees, has the meaning given it in section 5561(5) of title 5, United States Code [par. (5) of this section],

"(B) in the case of members of the uniformed services, has the meaning given it in section 551(2) of title 37, United States Code [section 551(2) of Title 37], and

"(C) in the case of other individuals, has a similar meaning as that provided under such sections, as determined by the Secretary of State.

For purposes of the preceding sentence, the term 'employee' has the meaning given to such term by section 5561(2) of title 5, United States Code [par. (2) of this section].

"(d) Hospitalized as a result of captive status.—

"(1) In general.—For purposes of this title, an individual shall be treated as hospitalized as a result of captive status if such individual is hospitalized as a result of injury or disease or physical or mental disability incurred or aggravated while such individual was in captive status.

"(2) 2-year limit.—Hospitalization shall be taken into account for purposes of paragraph (1) only if it is hospitalization—

"(A) occurring on or before the day which is 2 years after the date on which the individual's captive status ends (or, if earlier, the date on which the hostage period ends), or  
"(B) which is part of a continuous period of hospitalization which began on or before the day determined under subparagraph (A).

"(e) Civil service; uniformed services.—For purposes of this section, the terms 'civil service' and 'uniformed services' have the meanings given to such terms by section 2101 of title 5, United States Code [section 2101 of this title].

"(f) Application of title to all Tehran hostages.—In the case of any citizen or resident alien of the United States who is determined by the Secretary of State to have been held hostage in Tehran at any time during November 1979, for purposes of this title—

"(1) such individual shall be treated as an American hostage whether or not such individual meets the requirements of paragraph (1) or (2) of subsection (a), and

"(2) if such individual was not in the civil service or the uniformed services of the United States—

tuting 'earned income (as defined in section 101) of the United States or income received for, and

"(B) the amount excluded from gross income under section 201 for any month shall not exceed the monthly equivalent of the annual rate of basic pay payable for level V of the Executive Schedule.

"(g) Application of Title to individual held captive in Colombia.—For purposes of this title, Richard Starr of Edmonds, Washington, who, as a Peace Corps volunteer, was held captive in Colombia, shall be treated as an American hostage who was in captive status beginning on November 4, 1979, and ending on February 10, 1980.

"(h) Special rules.—

"(1) Compensation.—For purposes of this title, the term 'compensation' shall not include any amount received as an annuity or as retirement pay.

"(2) Wage withholding.—Any amount excluded from gross income under section 201 shall not be treated as wages for purposes of chapter 24 of the Internal Revenue Code of 1954 [section 3401 et seq. of Title 26].

"Sec. 206. Study of tax treatment of hostages.

"(a) Study.—The Chief of Staff of the Joint Committee on Taxation shall study all aspects of the tax treatment of citizens and resident aliens of the United States who are taken hostage or are otherwise placed in a missing status.

"(b) Report.—The Chief of Staff of the Joint Committee on Taxation shall, before July 1, 1981, report the results of the study made pursuant to subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

### "TITLE III—TREATMENT OF THE HOSTAGES IN IRAN "VISITS BY THE INTERNATIONAL RED CROSS

"Sec. 301. (a) The Congress finds that—

"(1) the continued illegal and unjustified detention of the American hostages by the Government of Iran has resulted in the deterioration of relations between the United States and Iran; and

"(2) the protracted length and the conditions of their confinement have reportedly endangered the physical and mental well-being of the hostages.

"(b) Therefore, it is the sense of the Congress that the President should make a formal request of the International Committee of the Red Cross to—

"(1) make regular and periodic visits to the American hostages being held in Iran for the purpose of determining whether the hostages are being treated in a humane and decent manner and whether they are receiving proper medical attention;

"(2) urge other countries to solicit the cooperation of the Government of Iran in the visits to the hostages by the International Committee of the Red Cross; and

of report to the United States in findings after each such visit."

of the American hostages in Iran, see EXEC. Nos. 12276 to 12285, Jan. 19, 1981, 46 F.R. 7913

er section 1701 of

## EXECUTIVE ORDER NO. 12268

Jan. 15, 1981, 46 F.R. 4671

### IMPLEMENTATION OF HOSTAGE RELIEF ACT OF 1980

By the authority vested in me as President by the Constitution and statutes of the United States of America, including the Hostage Relief Act of 1980 (Public Law 96-449; 94 Stat. 1967; U.S.C. 5561 note) [set out as a note under this section] and Section 301 of Title 3 of the United States Code [section 301 of Title 3, The President], and in order to provide for the implementation of that Act, it is hereby ordered as follows:

1-101. The functions vested in the President by Sections 103, 104, 105 and 301 of the Hostage

Relief Act of 1980 (5 U.S.C. 5561 note) [set out as a note under this section] are delegated to the Secretary of State.

1-102. The Secretary of State shall consult with the heads of appropriate Executive agencies in carrying out the functions in Sections 103, 104, and 105 of the Act [set out as a note under this section].

JIMMY CARTER

## EXECUTIVE ORDER NO. 12313

July 13, 1981, 46 F.R. 36689

### SPECIFICATION OF HOSTAGE RETURN DATE UNDER HOSTAGE RELIEF ACT OF 1980

By the authority vested in me as President of the United States of America by sections 101(2)(A) and 205(b)(1) of the Hostage Relief Act of 1980 (Public Law 96-449; 94 Stat. 1967, 1972; 5 U.S.C. 5561 note) (the "Hostage Act") [set out as a note under this section], it is hereby ordered, for the purposes of these sections of the Hostage Act, that January 11, 1981, is specified as the date

on which all citizens and resident aliens of the United States who were placed in a captive status due to the seizure of the United States Embassy in Iran have been returned to the United States or otherwise accounted for, and were no longer under foreign control.

RONALD REAGAN

### Cross References

Limitation on aggregate period for which assistance may be received under the Hostage Relief Act of 1980 and other provisions of law, see section 1795 of Title 38, Veterans' Benefits.

Restriction on concurrent receipt of benefits under the Hostage Relief Act of 1980 and other provisions of law for pursuit of the same education program, see section 1781 of Title 38.

### Code of Federal Regulations

General provisions, see 32 CFR 718.1.

§ 5562. Pay and allowances; continuance while in a missing status; limitations

Legislative History. For legislative history and purpose of Pub.L. 96-54, see 1979 U.S. Code Cong. and Adm. News, p. 931.

§ 5566. Agency determinations

### Notes of Decisions

#### 3. Jurisdiction

Under Missing Employee Act, it was exclusive province of employing agency to make determinations as to whether employee left job voluntarily, whether employee should be declared a "missing

person," and whether employee's spouse was entitled to continue receiving allotments from account credited with employee's pay and allowances; accordingly, Merit Systems Protection Board lacked jurisdiction to review those determinations. *Fugate v. Department of Interior*, MSPB 1984, 19 M.S.P.R. 306.

§ 5569. Benefits for captives

(a) For the purpose of this section—

(1) "captive" means any individual in a captive status commencing on or after November 4, 1979, who is charged with an offense described in subparagraph (B), until final disposition of such charge; and

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(A) in the Civil Service, or

(B) a citizen, national, or resident alien of the United States rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services);

(2) "captive status" means a missing status which, as determined by the President, arises because of a hostile action and is a result of the individual's relationship with the Government;

(3) "missing status"—

(A) in the case of an employee, has the meaning provided under section 5561(5) of this title; and

(B) in the case of an individual other than an employee, has a similar meaning; and

(4) "family member", as used with respect to a person, means—

(A) any dependent of such person; and

(B) any individual (other than a dependent under subparagraph (A)) who is a member of such person's family or household.

(b)(1) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any captive to the extent that such pay and allowances are not subject to an allotment under section 5563 of this title or any other provision of law.

(2) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with 3-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

(3) Amounts in the savings fund credited to a captive shall be considered as pay and allowances for purposes of section 5563 of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

(4) Any interest accruing under this subsection on—

(A) any amount for which an individual is indebted to the United States under section 5562(c) of this title shall be deemed to be part of the amount due under such section 5562(c); and

(B) any amount referred to in section 5566(f) of this title shall be deemed to be part of such amount for purposes of such section 5566(f).

(5) An allotment under this subsection may be made without regard to section 5563(c) of this title.

(c) The head of an agency shall pay (by advancement or reimbursement) any individual who is a captive, and any family member of such individual, for medical health care, and other expenses related to such care, to the extent that such care—

(1) is incident to such individual being a captive; and

(2) is not covered—

(A) by any Government medical or health program; or

(B) by insurance.

(d)(1) Except as provided in paragraph (3), the President shall make a cash payment, computed under paragraph (2), to any individual who became or becomes a captive commencing on or after November 4, 1979. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such individual terminates or, in the case of any individual whose status as a captive terminated before the date of the enactment of the Victims of Terrorism Compensation Act, before the end of the one-year period beginning on such date.

(2) Except as provided in section 802 of the Victims of Terrorism Compensation Act, the amount of the payment under this subsection with respect to an individual held as a captive shall be not less than one-half of the amount of the world-wide average per diem rate under section 5702 of this title which was in effect for each day that individual was so held.

(3) The President—

(A) may defer a payment under this subsection in the case of any individual who is charged with an offense described in subparagraph (B), until final disposition of such charge; and

(B) may deny such payment in the case of any individual who is convicted of an offense described in subsection (b) or (c) of section 8312 of this title committed—

(i) during the period of captivity of such individual; and

(ii) related to the captive status of such individual.

(4) A payment under this subsection shall be in addition to any other amount provided by law.

(5) The provisions of subchapter VIII of this chapter (or, in the case of any person not covered by such subchapter, similar provisions prescribed by the President) shall apply with respect to any amount due an individual under paragraph (1) after such individual's death.

(6) Any payment made under paragraph (1) which is later denied under paragraph (3)(B) is a claim of the United States Government for purposes of section 3711 of title 31.

(e)(1) Under regulations prescribed by the President, the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940, including the benefits provided by section 701 of such Act but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 of such Act, shall be provided in the case of any individual who is a captive.

(2) In applying such Act under this subsection—

(A) the term "person in the military service" is deemed to include any such captive;

(B) the term "period of military service" is deemed to include the period during which the individual is in a captive status; and

(C) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed, in the case of any captive, to be references to an individual designated for that purpose by the President.

(f)(1)(A) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(B) Except as provided in subparagraph (C), payments shall be available under this paragraph for a spouse or child of an individual who is a captive for education or training which occurs—

(i) after that individual has been in captive status for 90 days or more, and

(ii) on or before—

(I) the end of any semester or quarter (as appropriate) which begins before the date on which the captive status of that individual terminates, or

(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date.

In order to respond to special circumstances, the appropriate agency head may specify a date for purposes of cessation of assistance under clause (ii) which is later than the date which would otherwise apply under such clause.

(C) In the event a captive dies and the death is incident to that individual being a captive, payments shall be available under this paragraph for a spouse or child of such individual for education or training which occurs after the date of such individual's death.

(D) The preceding provisions of this paragraph shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

(E) For the purpose of this paragraph, "child" means a dependent under section 5561(8)(B) of this title.

(XXX) in order to respond to special circumstances, the head of an agency may pay (the advancement or reimbursement) a captive for expenses incurred for subsistence while attending an educational or training institution.

(B) Payments shall be available under this paragraph for a captive for education or training which occurs—

- (I) after the termination of that individual's captive status, and
- (II) on or before—

(I) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the captive status of that individual terminates, or

(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date, and

shall be available only to the extent that such payments are not otherwise authorized by law.

(3) Assistance under this subsection—

(A) shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 1724 of title 38; and

(B) may not be provided for any individual for a period in excess of 45 months (or the equivalent thereof in other than full-time education or training).

(4) Regulations prescribed to carry out this subsection shall provide that the program under this subsection shall be consistent with the assistance program under chapters 35 and 36 of title 38.

(g) Any benefit provided under subsection (c) or (d) may, under regulations prescribed by the President, be provided to a family member of an individual if—

(1) such family member is held in captive status; and

(2) such individual is performing service for the United States as described in subsection (a)(1)(A) when the captive status of such family member commences.

(h) Except as provided in subsection (d), this section applies with respect to any individual in a captive status commencing after January 21, 1981.

(i) Notwithstanding any other provision of this subchapter, any determination by the President under subsection (a)(2) or (d) shall be conclusive and shall not be subject to judicial review.

(j) The President may prescribe regulations necessary to administer this section.

(k) Any benefit or payment pursuant to this section shall be paid out of funds available for salaries and expenses of the relevant agency of the United States.

(Added Pub.L. 99-399, Title VIII, § 803(a), Aug. 27, 1986, 100 Stat. 879.)

**References in Text.** The date of enactment of the Victims of Terrorism Compensation Act, referred to in subsec. (d)(1), is the date of enactment of Title VIII of Pub.L. 99-399, which was approved Aug. 27, 1986.

Section 802 of the Victims of Terrorism Compensation Act, referred to in subsec. (d)(2), is section 802 of Pub.L. 99-399 which is set out as a note under this section.

The Soldiers' and Sailors' Civil Relief Act, referred to in subsec. (e)(1) is Act Oct. 17, 1940, c. 888, 54 Stat. 1178, as amended, which is classified to section 301 et seq. of Title 50, App., War and National Defense. Sections 701, 104, 105, 106, 400 through 408, 501 through 512, and 514 of such Act are classified to sections 591, 514, 515, 516, 540 through 548, 561 through 572, and 574 of Title 50, App., respectively. For complete classification of this Act to the Code, see section 501 of Title 50, App., and Tables volume.

**Short Title.** Section 801 of Pub.L. 99-399 provided that: "This title [enacting this section

and section 5570 of this title, sections 1051, 1095, and 2181 to 2185 of Title 10, Armed Forces, and sections 559 and 1013 of Title 37, Pay and Allowances of the Uniformed Services, amending section 6325 of this title, and enacting provisions set out as under this section, sections 1051, 1095, and 2181 of Title 10, and section 559 of Title 37] may be cited as the 'Victims of Terrorism Compensation Act'."

**Payment to Individuals Held in Captive Status Between November 4, 1979, and January 21, 1981.** Section 802 of Pub.L. 99-399 provided that: "The amount of the payment for individuals in the Civil Service referred to in section 5569(d) of title 5, United States Code (as added by section 803 of this title) [subsec. (d) of this section], or for individuals in the uniformed services referred to in section 559(c) of title 37, United States Code (as added by section 806 of this title) [section 559(c) of Title 37, Pay and Allowances of the Uniformed Services], as the case may be, shall be \$30 for each day any such individual was held in captive status

during a period commencing on or after November 4, 1979, and ending on or before January 21, 1981."

**Transition Provisions.** Section 805 of Pub.L. 99-399 provided that:

"(a) **Savings fund.**—(1) Amounts may be allotted to the savings fund under subsection (b) of section 5569 of title 5, United States Code (as added by section 803(a) of this Act) [subsec. (b) of this section] from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

"(2) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

"(b) **Medical and health care; educational expenses.**—Subsections (c) and (f) of such section 5569 (as so added) [subsecs. (c) and (f) of this section] shall be carried out with respect to the period after January 21, 1981, and before the effective date of those subsections [probably means Aug. 27, 1986, the date of enactment of Pub.L. 99-399], under regulations prescribed by the President.

"(c) **Definition.**—For the purpose of this subsection, the term 'captive' has the meaning given in section 5561 of title 5, United States Code [section 5561 of this title]."

**Regulations.** Section 807 of Pub.L. 99-399 provided that: "Any regulation required by this title or by any amendment made by this title [see Short Title note set out above] shall take effect not later than 6 months after the date of enactment of this Act [Aug. 27, 1986]."

**Effective Date of Entitlements.** Section 808 of Pub.L. 99-399 provided that: "Provisions enacted by this title [see Short Title note set out above] which provide new spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 [section 651(c)(2)(C) of Title 2, The Congress] shall not be effective until October 1, 1986."

**Legislative History.** For legislative history and purpose of Pub.L. 99-399, see 1986 U.S. Code Cong. and Adm. News, p. 1865.

**Library References**  
Criminal Law §1220.  
C.J.S. Criminal Law § 2007.

## § 5570. Compensation for disability or death

(a) For the purpose of this section—

(1) "employee" means—

(A) any individual in the Civil Service; and

(B) any individual rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services); and

(2) "family member", as used with respect to an employee, means—

(A) any dependent of such employee; and

(B) any individual (other than a dependent under subparagraph (A)) who is a member of the employee's family or household.

(b) The President shall prescribe regulations under which an agency head may pay compensation for the disability or death of an employee or a family member of an employee if, as determined by the President, the disability or death was caused by hostile action and was a result of the individual's relationship with the Government.

(c) Any compensation otherwise payable to an individual under this section in connection with any disability or death shall be reduced by any amounts payable to such individual under any other program funded in whole or in part by the United States (excluding any amount payable under section 5569(d) of this title) in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

(d) A determination by the President under subsection (b) shall be conclusive and shall not be subject to judicial review.

(e) Compensation under this section may include payment (whether by advancement or reimbursement) for any medical or health expenses relating to the death or disability involved to the extent that such expenses are not covered under subsection (c) of section 5569 of this title (other than because of paragraph (2) of such subsection).

(f) This section applies with respect to any disability or death resulting from an injury which occurs after January 21, 1981.

(g) Any benefit or payment pursuant to this section shall be paid out of funds available for salaries and expenses of the relevant agency of the United States.

(Added Pub.L. 99-399, Title VIII, § 803(a), Aug. 27, 1986, 100 Stat. 882.)

**Legislative History.** For legislative history and purpose of Pub.L. 99-399, see 1986 U.S. Code Cong. and Adm. News, p. 1865.

**Library References**  
Criminal Law ¶1220.  
C.J.S. Criminal Law § 2007.

#### SUBCHAPTER VIII—SETTLEMENT OF ACCOUNTS

##### § 5581. Definitions

**Legislative History.** For legislative history and purpose of Pub.L. 96-54, see 1979 U.S. Code Cong. and Adm. News, p. 931.

##### § 5582. Designation of beneficiary; order of precedence

###### Notes of Decisions

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##### 4. Effect of designation

Where bankruptcy judge issued an order directly contradictory to the provisions of this section requiring unpaid compensation due a deceased government employee to be paid to a trustee in bankruptcy and the government had received a claim for such compensation from the employee's surviving children, the order of the bankruptcy

judge could not be followed since sufficient grounds were not established to permit enforcement of the order in the face of the competing claim based upon a specific statutorily granted right. 1979, 58 Comp.Gen. 644.

##### 5. Payments made prior to death

Benefits received by widow from federal government for decedent's services as United States senator, which were paid according to decedent's election before his death, were not property of decedent's estate. *McDermott v. McAdams*, 1981, 616 S.W.2d 476, 273 Ark. 20.

##### § 5583. Payment of money due; settlement of accounts

**Legislative History.** For legislative history and purpose of Pub.L. 96-70, see 1979 U.S. Code Cong. and Adm. News, p. 1034.

##### § 5584. Claims for overpayment of pay and allowances, and of travel transportation and relocation expenses and allowances

(a) A claim of the United States against a person arising out of an erroneous payment of pay or allowances made on or after July 1, 1960, or arising out of an erroneous payment of travel, transportation or relocation expenses and allowances, to an employee of an agency, the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived in whole or in part by—

[See main volume for text of (1) and (2)]

(b) The Comptroller General or the head of the agency, as the case may be, may not exercise his authority under this section to waive any claim—

[See main volume for text of (1) and (2)]

(3) except in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden, if application for waiver is received in his office after the expiration of three years immediately following the date on which the erroneous payment of allowances was discovered or three years immediately following October 2, 1972, whichever is later;

(4) in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden, if application for waiver is received in his office after the expiration of 3 years immediately following the date on which the erroneous payment of pay or allowances was discovered or 3 years immediately following July 25, 1974, whichever is later; or

(5) in the case of a claim involving an erroneous payment of travel, transportation or relocation

in his office after the expiration of 3 years immediately following the date on which the erroneous payment was discovered.

[See main volume for text of (c) to (g)]

(As amended Pub.L. 99-224, § 1(a), Dec. 28, 1985, 99 Stat. 1741.)

**1985 Amendment.** Heading. Pub.L. 99-224, § 1(a)(1), substituted "and of travel, transportation and relocation expenses and allowances" for "other than travel and transportation expenses and allowances and relocation expenses".

**Subsec. (a).** Pub.L. 99-224, § 1(a)(2), substituted "made on or after July 1, 1960, or arising out of an erroneous payment of travel, transportation or relocation expenses and allowances," for "other than travel and transportation expenses and allowances and relocation expenses payable under section 5724a of this title, on or after July 1, 1960."

**Subsec. (b).** Pub.L. 99-224, § 1(a)(3), added par. (5).

**Effective Date of 1985 Amendment.** Section 4 of Pub.L. 99-224 provided that: "The amendments made by section 1 of this Act [amending this section] shall apply to any claim arising out of erroneous payment of travel, transportation, or relocation expenses and allowances made on or after the date of the enactment of this Act [Dec. 28, 1985]. The amendments made by sections 2 and 3 of this Act [amending sections 2774 of Title 10, Armed Forces, and 716 of Title 32, National Guard, respectively] shall apply to any claim arising out of an erroneous payment of travel and transportation allowances made on or after the date of the enactment of this Act [Dec. 28, 1985]."

**Legislative History.** For legislative history and purpose of Pub.L. 96-54, see 1979 U.S. Code Cong. and Adm. News, p. 931. See, also, Pub.L. 99-224, 1985 U.S. Code Cong. and Adm. News, p. 2659.

###### Notes of Decisions

##### 1. Waiver

Net indebtedness resulting from deduction of erroneous refund of retirement contributions from back pay could not be waived by General Accounting Office under this section, where such refund was not employee's pay or allowance. 1984, 64 Op.Comp.Gen. 86.

Repayment of total amount of erroneous severance pay was waived under this section, where it did not appear that employee should have known of error, either when he received severance pay or when he received retroactive disability retirement annuity payment. 1984, 64 Op.Comp.Gen. 15.

If, upon downward adjustment of pay rate in civilian employee's leave account, the employee has insufficient credit to cover such adjustment, the resulting negative leave balance represents pay to which he is not entitled, and which is subject to possible waiver. 1984, 63 Op.Comp.Gen. 210.

Where transferred employee received leave and earnings statements, which reflected optional life insurance premium deductions before his transfer, but not thereafter, his failure to examine such statements, and to note error, precluded government waiver of claim, under this section. 1983, 62 Op.Comp.Gen. 608.

There is no authority in this section for the government to waive recovery of temporary quarters subsistence expenses which have been erroneously paid. 1980, 60 Op.Comp.Gen. 71.

An erroneous lump-sum leave payment is subject to waiver under this section, but not in a case in which there is no net indebtedness. 1980, 59 Op.Comp.Gen. 395.

#### SUBCHAPTER IX—SEVERANCE PAY AND BACK PAY

##### § 5595. Severance pay

(a) For the purpose of this section—

[See main volume for text of (1)]

(2) "employee" means—

(A) an individual employed in or under an agency; and

(B) an individual employed by a county committee established under section 590h(b) of title 16; but does not include—

[See main volume for text of (i) to (v)]

(vi) an employee who, at the time of separation from the service, is entitled to receive benefits under section 609(b)(1) of the Foreign Service Act of 1980 or any other severance pay from the Government;

[See main volume for text of (vii) and (viii); (b) to (g)]

(As amended Pub.L. 96-465, Title II, § 2305, Oct. 17, 1980, 94 Stat. 2165.)

A4. B

98 STAT. 142

PUBLIC LAW 98-259—APR. 10, 1984

Public Law 98-259  
98th Congress

An Act

Apr. 10, 1984  
[H.R. 4206]

To amend the Internal Revenue Code of 1954 to exempt from Federal income taxes certain military and civilian employees of the United States dying as a result of injuries sustained overseas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. INCOME TAXES OF CERTAIN MILITARY AND CIVILIAN EMPLOYEES OF THE UNITED STATES DYING AS A RESULT OF INJURIES SUSTAINED OVERSEAS.**

26 USC 692.

(a) **GENERAL RULE.**—Section 692 of the Internal Revenue Code of 1954 (relating to income taxes of members of the Armed Forces on death) is amended by adding at the end thereof the following new subsection:

“(c) **CERTAIN MILITARY OR CIVILIAN EMPLOYEES OF THE UNITED STATES DYING AS A RESULT OF INJURIES SUSTAINED OVERSEAS.**—

“(1) **IN GENERAL.**—In the case of any individual who dies while a military or civilian employee of the United States, if such death occurs as a result of wounds or injury incurred outside the United States in a terroristic or military action, any tax imposed by this subtitle shall not apply—

“(A) with respect to the taxable year in which falls the date of his death, and

“(B) with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds or injury were incurred.

“(2) **TERRORISTIC OR MILITARY ACTION.**—For purposes of paragraph (1), the term ‘terroristic or military action’ means—

“(A) any terroristic activity directed against the United States or any of its allies, and

“(B) any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof).

For purposes of the preceding sentence, the term ‘military action’ does not include training exercises.

“(3) **TREATMENT OF MULTINATIONAL FORCES.**—For purposes of paragraph (2), any multinational force in which the United States is participating shall be treated as an ally of the United States.”

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**(b) EFFECTIVE DATE.—**

26 USC 692 note.

(1) **IN GENERAL.**—The amendment made by subsection (a) shall apply with respect to all taxable years (whether beginning before, on, or after the date of enactment of this Act) of individuals dying after December 31, 1979, as a result of wounds or injuries incurred after such date.

(2) **STATUTE OF LIMITATIONS WAIVED.**—Notwithstanding section 6511 of the Internal Revenue Code of 1954, the time for filing a claim for credit or refund of any overpayment of tax resulting from the amendment made by subsection (a) shall not expire before the date 1 year after the date of the enactment of this Act.

26 USC 6511.

Approved April 10, 1984.

**LEGISLATIVE HISTORY—H.R. 4206:**

**SENATE REPORT No. 98-364 (Comm. on Finance).**  
**CONGRESSIONAL RECORD, Vol. 130 (1984):**  
Feb. 22, considered and passed House.  
Apr. 5, considered and passed Senate.

